

function on a majority system. If you do not think someone is qualified, if you do not believe they have the judicial temperament, if you do not believe they have enough experience, if you do not like them for any reason, vote no. That is entirely within the prerogative of a Senator. But to hold them up, despite judicial emergencies, despite high caseloads, is to impact the system of justice.

I think this 10-percent vacancy factor now indicates that the condition of justice is, in fact, being affected throughout our country, particularly in the Ninth Circuit and in California as well as in many other States.

I thank the Acting President pro tempore and yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COONS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. COONS. Madam President, I rise today to continue to address an issue which I have just had the joy of hearing the Presiding Officer and the Senators from New York and Illinois speak to, and that concern I raise today is the ongoing crisis in our courts, the nearly 10-percent vacancy rate in judicial positions all across the United States.

I rise today as the junior Senator from Delaware but also as a member of the Delaware Bar and as a former Federal court clerk, and as someone who has, I think, a personal sense, from that experience and my service on the Judiciary Committee, of the consequences of these delays—the consequences of steadily climbing caseloads, significant judicial vacancies, judicial emergencies in districts across our great country, including in the State of California, and what that means for people, for companies, for communities for whom justice is being delayed and thus denied.

Earlier this month I attended the investiture ceremony of Judge Richard Andrews who was sworn into the U.S. District Court for Delaware. This is the first time in 6 years the very busy District Court of Delaware has had a full complement of district court judges.

Although I am relieved and the people of Delaware are grateful to have a full bench, and although Judge Andrews is an extremely talented lawyer and a devoted public servant and utterly nonpartisan—just the sort of district court nominee about whom the Presiding Officer just spoke—his nomination took nearly 6 months to be confirmed by the Senate.

I am glad Judge Andrews has made it through because in the Senate the confirmation process seems to be more broken this year than last. When I joined the Senate in 2010, judicial

nominations had slowed to a crawl. I watched with dismay as folks whom I viewed as highly qualified were blocked.

Goodwin Liu, for example—a brilliant and qualified legal scholar, a nominee twice to the Ninth Circuit—could not overcome a GOP filibuster, in part payback for a view, I believe, on the other side of the aisle of the rough handling of Miguel Estrada, whose nomination was defeated during the Bush Presidency.

What I have been most concerned about as a freshman Senator is how the history lying about this Chamber seems to steadily pile up session after session, and the process seems to be weighed down by this burden of history.

But next, Caitlin Halligan—an extremely competent attorney without a single partisan blemish on her record—was nominated to the DC Circuit, and her nomination, in my view, was also blocked based on a grotesque misrepresentation of her actual record. The major talking point against her nomination, if I recall right, was that the DC Circuit already had more than enough judges.

Judge Halligan would have been the 9th judge on that court. Notably, all the GOP Members who spoke against her had no qualms when the Senate confirmed the 10th and 11th judges to sit on that very same circuit during the Bush nomination period. But I think these sorts of fine points of history are lost on the people, the communities, and the companies across our Nation who go to the courthouse seeking justice and find none.

In 2012, as some of the previous Senators have stated, we have so far confirmed just five judges. Today, there are 19 nominees on the floor, 12 of whom came out of our Judiciary Committee unanimously, who are now languishing on our Executive Calendar. Republicans have not stated objection to these nominees but refuse to grant consent for a vote to be scheduled.

President Obama's nominees have waited four times longer after committee approval than did President Bush's nominees at this point in his first term, and the Senate is more than 40 confirmations behind the pace set during the Bush administration.

It is not just judges who have been the subject of this ongoing weighting down. The Executive Calendar, which I have the privilege to flip through every time I preside, is filled with nominees for vacancies in every major department and in every major independent agency in this government. It is more than a dozen pages long of nominations that have sat for months and months.

Last month, in response to the Republican obstructionism in moving this Executive Calendar and in filling these administrative vacancies, President Obama made recess appointments: the Consumer Financial Protection chief, Richard Cordray, and members of the National Labor Relations Board. Some

of us on both sides of the aisle do agree that Congress, and not the President, has the right to declare when the Senate is in recess. But whatever one's view of these appointments, there is no questioning that in either case, Republicans forced the issue through their unprecedented refusal to vote the President's nominees up or down and allow him to proceed with the progress of our Nation.

As Senators, we have a responsibility to advise the President as to his nominations and, where we agree, to consent; where we do not, each of us is free to vote no. Some Senators have suggested they will oppose all nominations in opposition to the President's recess appointments. In my opinion, a pledge to oppose all nominations is a pledge not to do his or her job. In my view, we ought not to make such a pledge. In my view, while so many Americans are out of work, and so many of us are here on the public payroll, we can, we should, and we must move forward with the judicial nominees.

This morning, this session began with a very encouraging moment of harmony between the majority leader and the Republican leader on the concept of moving ahead with appropriations. It is my hope and prayer we will do the same on judicial nominations as well.

I call upon my colleagues on the other side to rethink this strategy of obstruction at all costs because it is the American people who pay the price in the end.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

ORDER OF PROCEDURE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DOMESTIC ENERGY

Mrs. HUTCHISON. Mr. President, I think it is obvious all around our country that Americans are struggling right now with gasoline prices. The average American family spent more than \$4,000 on gasoline last year, and it will be more this year, with the additional devastating price increases we are seeing now that will wreak havoc on our economy.

The national average price of a gallon of gasoline has gone up every single day for the last 3 weeks. In many parts of our country, prices at the pump are around \$4 a gallon. But instead of encouraging an "all-of-the-above" approach, which the administration has said it is doing, the administration, instead, has been frustrating every domestic source of energy production that does not conform to a narrow view of alternative fuels.